

### **REMARKS/ARGUMENTS**

Applicants hereby submit this Amendment after Allowance along with a Request for Continued Examination for consideration of the Information Disclosure Statement submitted on October 31, 2008.

Claims 33 and 35-44 (now 1-11) were allowed and a Notice of Allowability was mailed by the Office on August 28, 2008.

During a post-allowance review of the file history of the instant application, Applicants became aware of references previously submitted to the Office which had not been considered by the Office. Applicants re-submitted the references in an Information Disclosure Statement on October 31, 2008 with the fee set forth in 37 CFR 1.17(p).


A Notice of Non-Compliant Information Disclosure Statement was mailed by the Office on November 5, 2008 because the IDS lacked a statement as specified in 37 CFR 1.97(e). Applicants hereby include the statement with a Request for Continued Examination solely for the purposes of consideration of the submitted references. The Applicants make this submission out of an excess of caution and this submission should not be construed to be an admission that the information cited herein is, or is considered to be, material or relevant to patentability of the pending claims.

With regard to the Statement as specified in 37 CFR 1.97(e), while Applicant was aware of the references more than three months before the filing of the IDS on October 31, 2008, due to the recent transfer of the application from another law firm, Applicants were not aware that the references had not been considered by the Office.

The Commissioner is authorized to charge any fee which may be required in connection with this Amendment to deposit account No. 50-3207.

Respectfully submitted,

Dated: 11/26/08

  
Michelle S. Glasky  
Registration No. 54,124  
CUSTOMER NUMBER: 45,200

**K&L GATES LLP**  
1900 Main Street, Suite 600  
Irvine, California 92614-7319  
Telephone: (949) 253-0900  
Facsimile: (949) 253-0902